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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,229	09/16/2003	Stephen J Brown	HERO-1-1145 / 014030.0110	2228
60683 7590 06/11/2008 HEALTH HERO NETWORK, INC. 2400 GENG ROAD, SUITE 200 PALO ALTO, CA 94303			EXAMINER RAJ, RAJIV J	
			ART UNIT 3626	PAPER NUMBER
			MAIL DATE 06/11/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/605,229	<b>Applicant(s)</b> BROWN, STEPHEN J	
	<b>Examiner</b> RAJIV J. RAJ	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-89 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04 November 2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Status of Claims**

1. This action is in reply to the application filed on 16 September 2003.
2. Claims 1-89 are currently pending and have been examined.

### **Information Disclosure Statement**

3. The Information Disclosure Statement filed on 04 November 2005 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

### **Priority**

4. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

### **Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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6. Claims 1-12, 17-20, 22-43, 45-55, 61-64, 66-87, and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen, III (US 4731726) (hereinafter Allen) in view Beckers (US 5019974) (hereinafter Beckers).
7. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

#### **Claim 1**

**Allen as shown, discloses the following limitations:**

- *at least one handheld microprocessor device including a display;* (see at least Allen Fig:1 Item:12 & related text)
- *and a memory;* (see at least Allen Fig:2 Items:152-154 & related text)
- *at least one central server connected to receive health-related data communicated to the microprocessor device;* (see at least Allen Column:4 Lines:51-63)
- *at least one health care professional computer, remotely located from and in signal communication with the central server to* (see at least Allen Fig:4 Items:100-106)
- *the system is configured to convert the handheld microprocessor device into a healthcare monitoring device that functions to (a) monitor at least one patient health condition; and (b) communicate data related to the monitored condition to the central server* (see at least Allen Claim:5)

Allen does not disclose the following limitations, however Beckers, as shown does:

- *receive patient health-related information based on the patient health-related data received from the handheld microprocessor device, wherein* (see at least Beckers Claim:1(a))

It would have been obvious to one of ordinary skill in the art to add this feature into Allen. One of ordinary skill in the art would have added this feature into Allen with the motivation of providing a

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more efficient and effective method and system for collecting and monitoring patients' medical conditions using networked portable devices with conventional processors. (see at least Beckers Column:1 Lines:45-53)

**Claim 2**

The combination of Allen/Beckers disclose all of the limitations of claim 1. Beckers further discloses the following limitation:

- *stored program instructions for generating health-monitoring related information on the display* (see at least Beckers Column:2 Lines:21-38)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more efficient and effective method and system for collecting and monitoring patients' medical conditions using networked portable devices with conventional processors. (see at least Beckers Column:1 Lines:45-53)

**Claim 3**

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *displaying pictorial health-monitoring related information* (see at least Allen Column:3 Lines:52-63)

**Claim 4**

The combination of Allen/Beckers disclose all of the limitations of claim 3. Allen further discloses the following limitation:

- *displaying animated health-monitoring related information* (see at least Allen Column:3 Lines:52-63)

**Claim 5**

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

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- *wherein the memory is a program cartridge (see at least Allen Fig:1, Fig:2 Items:152-154 & related text)*

#### **Claim 6**

The combination of Allen/Beckers disclose all of the limitations of claim 4. Allen further discloses the following limitation:

- *wherein the handheld device includes buttons, keys or switches (see at least Allen Fig:1 Item:11 & related text)*

#### **Claim 7**

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *at least one other health-monitoring device arranged to communicate health-related data to the health care professional computer (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)*

#### **Claim 8**

The combination of Allen/Beckers disclose all of the limitations of claim 7. Allen further discloses the following limitation:

- *a data management unit configured to facilitate collection of patient health-related data (see at least Allen Column:1 Lines:50-68)*

#### **Claim 9**

The combination of Allen/Beckers disclose all of the limitations of claim 8. Allen further discloses the following limitation:

- *the data management unit facilitates collection of health-related data by receiving data related to the monitored condition from at least one of the health-monitoring devices (see at least Allen Column:1 Lines:50-68)*

#### **Claim 10**

The combination of Allen/Beckers disclose all of the limitations of claim 7. Allen further discloses the following limitation:

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- *at least one of the health-monitoring devices includes one or more of the set consisting of a blood glucose monitor; a peak flow meter; a blood pressure monitor; a pulse monitor; and a body temperature monitor (see at least Allen Column:4 Lines:35-41)*

**Claim 11**

The combination of Allen/Beckers disclose all of the limitations of claim 7. Allen further discloses the following limitation:

- *one personal computer connected to the data management unit (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)*

**Claim 12**

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *one report based on the health-related data (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)*

**Claim 17**

The combination of Allen/Beckers disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *wherein the server can generate the report (see at least Allen Fig:4 Items: 100-114 & related text)*

**Claim 18**

The combination of Allen/Beckers disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *the system is configured to cause the presentation of at least one report on the display at a remote patient site (see at least Allen Fig:4 Items: 102,110,114 & related text)*

**Claim 19**

The combination of Allen/Beckers disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *wherein the system can display statistical and/or trend information (see at least Allen Fig:1 Items:10 & related text)*

**Claim 20**

The combination of Allen/Beckers disclose all of the limitations of claim 19. Allen further discloses the following limitation:

- *wherein the system can display statistical or trend information to the patient* (see at least Allen Fig:1 Items:10 & related text)

**Claim 22**

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the system is configured to transmit at least one message for display on at least one display* (see at least Allen Column:1 Lines:6-11, Fig:1 Items:10& related text)

**Claim 23**

The combination of Allen/Beckers disclose all of the limitations of claim 22. Beckers further discloses the following limitation:

- *wherein the message includes step-by-step instructions* (see at least Beckers Claim 1(c))

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers.

One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more efficient and effective method and system for collecting and monitoring patients' medical conditions using networked portable devices with conventional processors. (see at least Beckers Column:1 Lines:45-53)

**Claim 24**

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message includes results of a test* (see at least Allen Column:6 Lines:53-61)

**Claim 25**

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:



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- *the message includes diagnostic information indicating whether a test has proceeded in a normal fashion* (see at least Allen Column:15 Lines:50-62)

**Claim 26**

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message is a multi-line message* (see at least Allen Column:11 Lines:4-14)

**Claim 27**

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *the message is a health care professional selected message* (see at least Allen Fig:4 Items:100, 104, 110-112 & related text)

**Claim 28**

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the health care professional generates the selected message* (see at least Allen Fig:4 Items:100, 104, 110-112 & related text)

**Claim 29**

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message is a educational or motivational* (see at least Allen Fig:4 Items:112, related text & Column:10 Lines:7-12 "The monitor is able to collect dietary information in three different way. The physician will specify which way the monitor should ask about food intake to reflect the way best suited for the individual patient based on his motivation and education in quantifying dietary intake.")

**Claim 30**

The combination of Allen/Beckers disclose all of the limitations of claim 27. Allen further discloses the following limitation:

- *wherein the system is configured to transmit the message can be to a specific patient* (see at least Allen Fig:4 Items:112-114 & related text)

**Claim 31**

The combination of Allen/Beckers disclose all of the limitations of claim 27. Allen further discloses the following limitation:

- *wherein the system is configured to transmit the message automatically to the patient* (see at least Allen Fig:4 Items:112-114 & related text)

**Claim 32**

The combination of Allen/Beckers disclose all of the limitations of claim 27. Allen further discloses the following limitation:

- *wherein the system enables the patient to choose when to receive the message* (see at least Allen Column:10 Lines:35-36 "Then the patient selects the review data option by pressing the RD key.")

**Claim 33**

The combination of Allen/Beckers disclose all of the limitations of claim 27. Allen further discloses the following limitation:

- *wherein the message can be stored before being transmitted to the patient* (see at least Allen Column:14 Lines:19-23 "The reading is displayed on display 12 and is stored in RAM 152 when the patient actuates the ENTER key. After entry of the reading, the program exits the blood glucose assessment module and proceeds to the net assessment module.")

**Claim 34**

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the system is configured to allow the patient to control the display of information using at least one menu* (see at least Allen Fig:2 Fig:4 Items:150-150a & related text)

**Claim 35**

The combination of Allen/Beckers disclose all of the limitations of claim 34. Allen further discloses the following limitations:

- *a display mode for displaying relevant information; (see at least Allen Fig:1 Items:12 & related text)*
- *an input mode for providing information; and (see at least Allen Fig:1 Items:11 & related text)*
- *a communications mode for establishing a link with the central server (see at least Allen Fig:4 Items:10, 100-110 & related text)*

#### **Claim 36**

The combination of Allen/Beckers disclose all of the limitations of claim 31. Allen further discloses the following limitation:

- *the menu allows a patient to select a monitoring mode in which at least one health-monitoring device is used to monitor at least one patient health condition at at least one remote patient site; (see at least Allen Column:11 Lines: 41-55)*
- *and to communicate data related to the monitored condition to the central server; and (see at least Allen Fig:2 Items:66, Fig:4 Items:10-102-106 related text)*

#### **Claim 37**

The combination of Allen/Beckers disclose all of the limitations of claim 34. Allen further discloses the following limitation:

- *wherein the menu allows the patient to display messages or instructions from a health care professional (see at least Allen Column:4 Lines:11-15)*

#### **Claim 38**

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the system is configured to enable the patient to respond to information on the display by using a cursor or other indicator positioned at a selected item (see at least Allen Column:4 Lines:50-67)*

#### **Claim 39**

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The combination of Allen/Beckers disclose all of the limitations of claim 2. Beckers further discloses the following limitation:

- *wherein the system is configured to enable programs to be provided from the server, for storage in a memory and execution at a remote patient site* (see at least Beckers Column:2 Lines:21-38))

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more efficient and effective method and system for collecting and monitoring patients' medical conditions using networked portable devices with conventional processors. (see at least Beckers Column:1 Lines:45-53)

#### **Claim 40**

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the patient can indicate user experienced symptoms to the system* (see at least Allen Column:9 Lines:5-11)

#### **Claim 41**

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the system can capture quantitative measurements* (see at least Allen Abstract: "A monitor system is provided which includes means for measuring blood glucose values and for generating glucose data signals, monitor means coupled to the measuring means and including means for inputting patient data, means for transmitting and receiving data to and from the monitor means, and computing means for receiving glucose data signal in connection with administration treatment for diabetes mellitus.")

#### **Claim 42**

The combination of Allen/Beckers disclose all of the limitations of claim 41. Allen further discloses the following limitation:

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- *wherein the system can capture medication data* (see at least Allen Column:2 Lines:28-47)

**Claim 43**

The combination of Allen/Beckers disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the collected patient health-related data includes time data* (see at least Allen Column:6 Lines:19-27 "The data thus entered sets a time value into the timer and "Channel O" signal from shift register output 12 subsequently initiates operation of the timer. Upon timeout of the timed interval timer 52 sends a signal to the MPU I/O control terminal B7, whereupon MPU takes the appropriate action, such as producing a "beep" sound through audio unit 13 and triggering a prescribed software routine to give the patient the necessary prompts, etc.")

Method claims 45-455, 61-64, 66-87, and 89 disclose substantially similar limitations as those found in system claims 1-12, 17-30, & 22-43, and are rejected on the same grounds as stated above.

8. Claims 13-16, 21, 44, 57-60, 65, and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view Beckers in further view of Yamamoto (US 4685059) (hereinafter Yamamoto).

**Claim 13**

The combination of Allen/Beckers disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein at least one report is standardized* (see at least Yamamoto Fig:4 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

**Claim 14**

The combination of Allen/Beckers disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

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- *system is configured to allow a health care professional to select which of a plurality of standardized reports is produced* (see at least Yamamoto Column:15 Lines:5-28)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

**Claim 15**

The combination of Allen/Beckers disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein the report uses graphs and/or icons* (see at least Yamamoto Fig:5 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

**Claim 16**

The combination of Allen/Beckers disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein the report can be generated periodically* (see at least Yamamoto Column:5 Lines:29-68 & Column:6 Lines:1-12)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

**Claim 21**

The combination of Allen/Beckers disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

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- *wherein the report includes information data for a period of time* (see at least Yamamoto Fig:2, 4 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

#### **Claim 44**

The combination of Allen/Beckers disclose all of the limitations of claim 1. Yamamoto further discloses the following limitation:

- *the healthcare professional receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user* (see at least Yamamoto Column:5 Lines:13-28)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Method claims 57-60, 65, and 88 disclose substantially similar limitations as those found in system claims 13-16, 21 & 44 and are rejected on the same grounds as stated above.

### **Conclusion**

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Rajiv J. Raj** whose telephone number is **571-270-3930**. The Examiner can normally be reached on Monday-Friday, 7:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Luke Gilligan** can be reached at **571.272.6770**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

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or faxed to **571-273-8300**.

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Date: 06/02/08

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/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626